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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 SAMER KARAWI,

8 Petitioner,

9 v.

10 UNITED STATES OF AMERICA,

11 Respondent.

Case No. C08-0947RSL

ORDER GRANTING
CERTIFICATE OF APPEALABILITY

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13 This matter comes before the Court on petitioner's "Motion for Certificate of
14 Appealability." Dkt. # 18. Because petitioner filed his notice of appeal after April 24, 1996, his
15 appeal is governed by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"),
16 which worked substantial changes to the law of habeas corpus. Under the amended version of
17 28 U.S.C. § 2253(c), a petitioner may not appeal the denial of a habeas corpus petition unless the
18 district court or the Ninth Circuit issues a certificate of appealability identifying the particular
19 issues that may be pursued on appeal. United States v. Asrar, 116 F.3d 1268 (9th Cir. 1997).

20 To obtain a certificate of appealability, the petitioner must make a substantial
21 showing of the denial of a constitutional right. "Obviously the petitioner need not show that he
22 should prevail on the merits. He has already failed in that endeavor." Barefoot v. Estelle, 463
23 U.S. 880, 893 n.4 (1983). Rather, he must demonstrate that the resolution of the habeas petition
24 is debatable among reasonable jurists or that the issues presented were "adequate to deserve
25 encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). Where a
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petition is dismissed on procedural grounds, the Court must determine whether “jurists of reason” would debate (1) whether the petition states a valid claim of the denial of a constitutional right and (2) whether the district court’s procedural ruling was correct. Slack, 529 U.S. at 484.

Having reviewed the record in this case, including the Report and Recommendation of the Honorable James P. Donohue, United States Magistrate Judge, the Court finds that the dismissal of petitioner's ineffective assistance of counsel claim is debatable among reasonable jurists and that the claim deserves to proceed further. Petitioner's motion for a certificate of appealability is therefore GRANTED.

Dated this 23rd day of March, 2009.

Mr S Casnik

Robert S. Lasnik
United States District Judge